

REMARKS

The final Office Action, mailed September 7, 2006, considered and rejected claims 1-9, 11-21, and 23. Claims 1 and 13 were provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1 and 13 of copending Application No. 09/771,121 (Johansson). Claims 1, 2, 4-7, 11-14, 16-19, 23 and 24 were rejected under 35 U.S.C. § 102(e) as being anticipated by Andersson (U.S. Patent No. 6,047,194). Claims 3 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Andersson (U.S. Patent No. 6,047,194) in view of Wang (U.S. Patent No. 6,614,774). Claims 8, 9, 20 and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Andersson (U.S. Patent No. 6,047,194) in view of Brothers (U.S. Patent No. 6,822,955).¹ Claims 1 and 13 were objected to for minor informalities which are now moot in view of the amendments made to the claims as listed above. Claims 10 and 22 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and have now been rewritten in independent form including all limitations of the base claims, such that Applicant respectfully submits that claims 10 and 22 are now allowable, as written.

By this paper, claims 1, 10, 11, 13, and 22 have been amended, claims 25 and 26 added, and claim 23 cancelled. Accordingly, following this paper, claims 1-22, 24 and 25 remain pending, of which claims 1, 10, 11, 13, 22 and 26 are the only independent claims at issue.

Initially, Applicant notes that the remarks and amendments presented herein have been made to merely clarify the claimed embodiments and to explicitly recite elements that Applicant believes were already inherently present in the claims. For example, claims 1 and 13 have been amended to clarify that the packet data session established by the wireless mobile communication station with an originator enables the originator to thereafter transmit the desired data packet for receipt by the wireless mobile communication station. In addition, claim 25 has been added to clarify one aspect of the present invention in which the originator transmits its network address separate from the desired package data, and such that while the network address

¹ Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

is transmitted to the message service, the package data bypasses the message service. Support for the claim amendments and new claim can be found in at least the disclosure provided by Figure 1, and in paragraphs [012], [014], [016], [021], [022], [040-[044], [048] and [050]-[055] of the originally filed application.

As reflected in the above claims, the present invention is generally directed to methods and systems for transmitting packet data in a way that provides wireless device users to determine, real-time, which packet data to receive. As reflected in claim 1, for example, a wireless mobile communication station receives a network address of an originator of packet data, where the originator is attempting to push the packet data to the mobile communication station. The network address is received in a message from a message service in response to the originator submitting a request that the message service transmit a message to the wireless mobile communication station containing the originator's network address. The wireless mobile communication station also acquires an identity corresponding to the received network address, and determines, based on the identity, whether or not packet data from the originator is desired. Upon determining that the packet data is desired, the wireless mobile communication station establishes a packet data session with the originator which enables the originator to thereafter transmit the desired packet data for receipt by the wireless mobile communication station, thereby also enabling the wireless mobile communication station to selectively permit desired packet data to be pushed from the originator to the wireless mobile communication station.

Claim 13 recites a method as implemented in a system which includes an originator, wireless mobile communication station, and message service, and generally corresponds to the method of claim 1.

I. Rejections under 35 U.S.C. § 102

Applicant respectfully submits that the claims, particularly as amended, define methods which are substantially different from the method of Andersson. For example, among other things, Andersson fails to disclose or suggest a method in which a wireless mobile communication station establishes a packet data session with the originator, which enables the originator to *thereafter* transmit the desired packet data to be pushed to the wireless mobile

communication station, as recited in combination with the other claim elements. In fact, it appears that Andersson teaches the opposite in that desired packet data is transmitted from an originator as the first step of the method, before any communication is established with the wireless device.

In particular, Andersson discloses methods and systems in which packet data is originated at an Internet host 12 for transmission to a mobile terminal 14. (Col. 5, ll. 5-9, 64-67). In the sequence in which the packet data is prepared for, and ultimately delivered to, the mobile terminal, the packet data originated by the Internet host is *first* transmitted and routed to a to an SMS-C 56 within public land mobile network (PLMN) 18. (Col. 7, ll. 14-23, 36-54; Col. 8, ll. 44-53; Figs. 1, 2). The packet data includes header information which identifies the IP address of the mobile terminal to which it is directed. (Col. 7, ll. 23-27). The packet data is used to generate an SMS message which is sent to the mobile terminal, which then displays a message indicating the originator of the packet data. (Col. 7, ll. 42-64; Col. 8, ll. 21-35). The user of the mobile terminal can then determine whether to permit transmission of the packet data to the mobile terminal. (Col. 8, ll. 35-40). When permission is granted, the mobile terminal registers to enter a packet state so as to receive the packet data, and the packet data is then routed to the mobile terminal. (Col. 8, ll. 7-13, 40-43).

Thus, while Andersson appears to disclose a method in which an Internet host originates a message which is selectively delivered to a mobile terminal after a user of the mobile terminal grants permission for delivery, Andersson also appears to teach that such a method includes the originator *first* sending the packet to the PLMN and then, upon receiving permission from the mobile terminal, the PLMN then routing the packet data to the mobile terminal. In other words, Andersson discloses that the PLMN transmits the packet data to the mobile device after receiving permission from the user; however, packet data is *transmitted by the originator before* any communication is established with the mobile device, and in fact before the mobile device is even identified. Thus, Andersson fails to teach or suggest wherein the *originator transmits* the packet data for receipt by a wireless mobile communication station *after* a packet data session

has been established between the wireless mobile communication station and the originator, as recited in combination with the other claim elements.²

II. Rejection based on Double Patenting

Applicant notes that a terminal disclaimer is being filed herewith. Accordingly, Applicant also submits that the provisional rejection of claims 1 and 13 under the judicially created doctrine of obviousness-type double patenting is now moot. Nevertheless, Applicant notes that inasmuch as the present application and copending Application No. 09/771,121 were filed the same day, the terminal disclaimer is merely being filed to expedite prosecution, and Applicant does not acquiesce to the assertion in the Office Action that claims 1 and 13 are unpatentable and obvious in light of claims 1 and 13 of (Johansson).³

III. Conclusion

In view of the foregoing, Applicants respectfully submit that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicants acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicants reserve the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicants specifically request that the Examiner

² Figure 2 of Andersson also clearly illustrates that the Internet host—which originates the packet data—necessarily sends the packet before any communication with the mobile terminal is established. In particular, and as illustrated, the only communication between the Internet host and *any* other element in the system disclosed in Andersson, is the first sequential act 86, in which the Internet host transmits the packet data. Thereafter, the remaining acts disclosed in Andersson take place between mobile terminal 14 and other elements (34, 36, 42, 44, 46 and 56) of PLMN 18. Thus, inasmuch as internet host 12 communicates the packet in the first instance, before any communication is established by or with the mobile terminal, Andersson fails to teach the originator transmitting the desired packet data after a packet data session is established with the wireless mobile communication station as claimed in combination with the other claim elements.

³ In fact, Applicant particularly disagrees with the assertion on page 12 of the Office Action which appears to argue that the present application and the '121 application are of the same claim scope inasmuch as they were filed the same day. Applicant respectfully submits that the mere filing of two applications on the same day is not, without more, sufficient to indicate that claims presented therein are obvious variants of one another.

provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney by telephone at (801) 533-9800.

Dated this 22nd day of January, 2007.

Respectfully submitted,



JENS C. JENKINS
Registration No. 44,803
COLBY C. NUTTALL
Registration No. 58,146
Attorneys for Applicant
Customer No: 022913

JCJ:CCN:gcd